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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,094	11/02/2001	Joern Ostermann	2000-0600	5333

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EXAMINER

RIVERO, MINERVA

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,094

Applicant(s)

OSTERMANN ET AL.

Examiner

Minerva Rivero

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/02/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title: "A system and method for sending multi-media messages with customized audio" is not appropriate since a system is not being claimed.

Claim Objections

2. Claim 24 is objected to because of the following informalities: Claim 4 is recited in the form of a dependent claim, yet no parent claim is specified. The examiner has assumed the intended parent claim is claim 23. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 3-6, 7 and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosenblatt *et al.* (U.S. 2002/0007276).

Regarding claim 1, Rosenblatt *et al.* disclose a method of delivering a multi-media message to a recipient, the multi-media message being created by a sender for delivery by an animated entity, the method comprising:

recording an audio message from the sender ([0031], Lines 4-8);

receiving a choice of one of a plurality of animated entities to deliver the message (virtual representatives, [0008], Lines 3-8);

conforming the audio message to movements associated with the animated entity to create a multi-media message ([0015], Lines 18-22) and

delivering the multi-media message to the recipient with the animated entity speaking the recorded audio message from the sender ([0015], Lines 9-18).

Regarding claim 3, Rosenblatt *et al.* disclose the multi-media message is sent as an e-mail to the recipient ([0041], Lines 6-10).

Regarding claim 4, Rosenblatt *et al.* disclose the multi-media message is sent as an instant message to the recipient ([0041], Lines 6-10).

Regarding claim 5, Rosenblatt *et al.* disclose the multi-media message is sent over the Internet to the recipient ([0029], Lines 1-5).

Regarding claim 6, Rosenblatt *et al.* suggest the multi-media message is sent to the recipient via a wireless network (some other network, [0029], Lines 1-5).

Regarding claim 7, Rosenblatt *et al.* disclose a method of sending a multi-media message from a sender to a recipient using an animated entity, the sender choosing the animated entity from a plurality of animated entities, the method comprising:

- recording a sender audio message ([0031], Lines 4-8);
- associating the sender audio message with the animated entity to create the multi-media message ([0015], Lines 18-22) and
- processing the multi-media message for the recipient such that the animated entity speaks the sender audio message ([0015], Lines 9-18).

Regarding claim 9, Rosenblatt *et al.* disclose the multi-media message is sent over the Internet to the recipient ([0029], Lines 1-5).

Regarding claim 10, Rosenblatt *et al.* disclose the multi-media message is sent as an instant message to the recipient ([0041], Lines 6-10).

Regarding claim 11, Rosenblatt *et al.* suggest the multi-media message is sent to the recipient via a wireless network (some other network, [0029], Lines 1-5).

5. Claims 18-20 and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyashita *et al.* (U.S. Patent 6,289,085).

Regarding claim 18, Miyashita *et al.* disclose a method of providing a synthesized voice with sender voice characteristics, the method comprising:
receiving an audio recording from the sender (Col. 10, Lines 49-52);
parameterizing the audio recording into audio parameters (Col. 10, Lines 63-66);
using the audio parameters, synthesizing a voice that is not the sender's voice but includes at least one sender voice characteristic (Col. 3, Lines 26-34 and 49-58).

Regarding claim 19, Miyashita *et al.* further disclose the at least one sender voice characteristic is one of an accent, voice inflection, pitch, or dialect (Col. 1, Lines 43-48; Col. 7, Line 57).

Regarding claim 20, Miyashita *et al.* further disclose before receiving the audio, receiving a text version of a message associated with the audio recording (Col. 1, Lines 60-65).

Regarding claim 22, Miyashita *et al.* further disclose parameterizing the audio recording into audio parameters further comprises using an alignment program for segmenting the audio into phonemes and labeling the audio recording with the phonemes, duration, pitch, stress and other parameters (Col. 3, Lines 49-57; speed adjustment, Col. 7, Line 58; pitch, Col.7, Line 57; accent, Col. 8, Lines 37-44).

Regarding claim 23, it recites a combination of the elements in claims 18 and 20, and therefore the same rejections apply.

Regarding claim 24, it recites a combination of the elements in claims 18, 19 and 20, and therefore the same rejections apply.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt et al (U.S. 2002/0007276) in view of Mitchell *et al.* (U.S. Patent 5,857,099).

Regarding claim 2, Rosenblatt *et al.* do not disclose but Mitchell *et al.* do disclose after recording the audio message from the sender, converting the audio message to a text message and presenting a text version of the audio message to the sender (Col. 8, Lines 4-8) and

delivering the multi-media message to the recipient upon approval of the text message from the sender (Col.8, Lines 4-8; Col. 2, Lines 46-52).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with after recording the audio message from the sender, converting the audio message to text and presenting a text version of the audio message to the sender, as taught by Mitchell *et al.*, and delivering the multi-media message to the recipient upon approval of the text message from the sender as further taught by Mitchell *et al.*, in order to allow a handicapped person to create and send a message, and to enable the user to verify that the automatically generated text version properly corresponds to the audio message.

Regarding claim 8, Rosenblatt *et al.* further disclose

after receiving approval from the sender for the text message, using the text message to coordinate mouth movements for the animated entity ([0028], Lines 14-18).

However, Rosenblatt *et al.* do not disclose but Mitchell *et al.* do disclose using an automatic speech recognition system to convert the audio message to a text message (Col. 2, Lines 38-41) and presenting the text message to the sender (Col.8, Lines 4-8).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with using an automatic speech recognition system to convert the audio message to a text message and presenting the text message to the sender as taught by Mitchell *et al.* in order to make the message accessible to the hearing-impaired and to allow the user to verify the automatically transcribed message's accuracy.

8. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (U.S. 2002/0007276) in view of Ball *et al.* (U.S. 6,393,107).

Regarding claim 12, Rosenblatt *et al.* disclose a method of delivering a multi-media message being created by a sender for delivery by an animated entity, the method comprising:

receiving a text message from the sender ([0019], Lines 1-5);

receiving a choice of one of a plurality of animated entities to deliver the message (virtual representatives, [0008], Lines 3-8);

conforming the sender audio message to movements associated with the animated entity to create a multi-media message ([0015], Lines 18-22) and

delivering the multi-media message to the recipient with the animated entity speaking the recorded audio message from the sender ([0015], Lines 9-18).

However, Rosenblatt *et al.* do not disclose but Ball *et al.* do disclose recording a sender audio message corresponding to the text message (Col. 3, Lines 43-48).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with the recording of a sender audio message corresponding to the text message as taught by Ball *et al.*, since this allows message accessibility to a hearing-impaired individual.

Regarding claim 13, Rosenblatt *et al.* further disclose delivering the multi-media message to the recipient upon approval of the sender audio message by the sender ([0037], Lines 11-20).

Regarding claim 14, Rosenblatt *et al.* do not disclose but Ball *et al.* do disclose recording the sender audio message corresponding to the text message after the sender makes a request to input an audible version of the text message (Col. 27, Lines 16-20).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with recording the audio message corresponding to the text message after the sender makes a request to input an audible version of the text message as taught by Ball *et al.* so as to allow the user to customize the multi-media message according to the user's preference.

Regarding claim 15, Rosenblatt *et al.* disclose a method of sending a multi-media message from a sender to a recipient using an animated entity, the sender choosing the animated entity from a plurality of animated entities, the method comprising:

receiving a text message from the sender ([0019], Lines 1-5);

associating the sender audio message with the animated entity to create the multi-media message ([0015], Lines 18-22) and

processing the multi-media message for the recipient such that the animated entity speaks the sender audio message ([0015], Lines 9-18).

However, Rosenblatt *et al.* do not disclose but Ball *et al.* do disclose recording a sender audio message corresponding to the text message (Col. 3, Lines 43-48).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with the recording of a sender audio message corresponding to the text message as taught by Ball *et al.*, to make the message accessible to a hearing-impaired individual.

9. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (U.S. 2002/0007276) in view of Ball *et al.* (U.S. 6,393,107) and further in view of Miyashita *et al.* (6,289,085).

Regarding claim 16, Rosenblatt *et al.* disclose a method of sending a multi-media message from a sender to a recipient using an animated entity, the sender choosing the animated entity from a plurality of animated entities, the method comprising:

receiving a text message from the sender ([0019], Lines 1-5) and
conforming the audio message to movements associated with the animated entity to create a multi-media message ([0015], Lines 18-22).

However, Rosenblatt *et al.* do not disclose but Ball *et al.* do disclose recording a sender audio message corresponding to the text message (Col. 3, Lines 43-48).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with the recording of a sender audio message corresponding to the text message as taught by Ball *et al.*, to make the message accessible to a hearing-impaired individual.

Moreover, neither Rosenblatt *et al.* nor Ball *et al.* disclose but Miyashita *et al.* do disclose delivering the multi-media message to the recipient, wherein the animated entity uses a synthesized voice having characteristics associated with the recorded sender audio message (Col. 13, Lines 10-14).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* and Ball *et al.* with delivering

the multi-media message to the recipient, wherein the animated entity uses a synthesized voice having characteristics associated with the recorded sender audio message in order to provide the recipient with a more personal experience.

Regarding claim 17, Rosenblatt *et al.* and Ball *et al.* do not disclose but Miyashita *et al.* do disclose the synthesized voice includes an accent of the sender voice (Col. 8, Lines 46-52).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* and Ball *et al.* by having the synthesized voice include an accent of the sender voice as further taught by Miyashita *et al.* so as to provide the recipient of the multi-media message with a more personal experience.

10. Claim 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Miyashita *et al.* (U.S. Patent 6,289,085) in view of Mitchell *et al.* (U.S. Patent 5,857,099).

Regarding claim 21, Miyashita *et al.* do not disclose but Mitchell *et al.* do disclose after receiving the audio recording, using an automatic speech recognizer and presenting a text version of the audio recording to the sender for approval before parameterizing the audio recording (Col. 8, Lines 4-8).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Miyashita *et al.* with after receiving the audio

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recording, using an automatic speech recognizer and presenting a text version of the audio recording to the sender for approval before parameterizing the audio recording as taught by Mitchell *et al.* in order to ensure the user is satisfied with such text version of the message.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Greene et al. (U.S. Patent 6,377,925)

Liebermann (U.S. Patent 5,982,853)

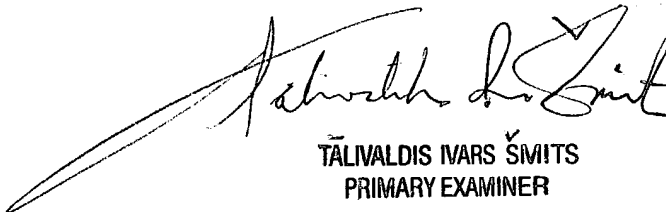
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minerva Rivero whose telephone number is (703) 605-4377. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (703) 305-4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR 10/07/2004



TĀIVALDIS IVARS ŠMITS
PRIMARY EXAMINER